

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
OCTOBER 14, 2002
HUGHES AUDITORIUM
6:30 P.M.

CALL TO ORDER

Mayor Jennings called the meeting to order at 6:45 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Jeffrey Jennings, Mayor Pro Tem Ken Kearsley, Councilmembers Sharon Barovsky and Andrew Stern.

ABSENT: Councilmember Joan House

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Julia James, Administrative Services Director; Drew Purvis, Planning Director; Vic Peterson, Building Official; Larry Young, Environmental Health Specialist; Lt. Van Herpe, Sheriff's Department, and Lisa Pope, City Clerk

FLAG SALUTE

Norman Ollestad led the Pledge of Allegiance.

CLOSED SESSION REPORT

City Attorney Hogin reported that the Council met in closed session at 5:30 p.m. to discuss the following items:

Existing litigation per Government Code Section 54956.9 (a):

1. Antario v. City of Malibu
Los Angeles County Superior Court Case No. BC253990
2. Brown v. City of Malibu
Ventura County Superior Court Case No. CIV212554
3. Cher v. City of Malibu
Los Angeles County Superior Court Case No. SS10632
4. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
5. City of Malibu v. California Coastal Commission
Los Angeles County Superior Court Case No. BC230410

6. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)
Ventura County Superior Court Case No. CIV193900
7. Coffman v. City of Malibu
Los Angeles County Superior Court Case No. BC246067
8. Darian v. Accent Builders et al.
United States District Court Case No. 00-10255-FMC(JWJ)
9. Keach v. City of Malibu
Los Angeles County Superior Court Case No. SS009723
10. Levenson v. City of Malibu et al.
Los Angeles County Superior Court Case No. SC059037
11. Marine Forest Society v. California Coastal Commission Case No. 00AS00567
(Sacramento Superior Court) (Amicus)
12. Nese v. City of Malibu
Los Angeles County Superior Court Case No. SC070775
13. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
14. Sierra Club v. City of Malibu
Los Angeles County Superior Court Case No. BS064912
15. Silver v. City of Malibu
Los Angeles County Superior Court Case No. BC255025
16. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
17. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu
Los Angeles County Superior Court Case No. BC258432
18. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
19. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794

Initiation of Litigation pursuant to Government Code Section 54956.9(c):

20. Number of cases: 2

Personnel matters pursuant to Government Code Section 54957:

21. Public Employee Performance Evaluation
Title: City Treasurer

Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

22. Number of Cases: 1

The City Attorney stated that the Council discussed several but not all items on the posted agenda and took no reportable action.

APPROVAL OF AGENDA

MOTION Councilmember Barovsky moved and Councilmember Stern seconded a motion to approve the agenda. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was posted on October 4, 2002.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Commendation to the Malibu Summer Beach Team

Mayor Jennings presented certificates of recognition to the Summer Beach Team. Lt. Van Herpe commended the members of the Summer Beach Team for their service to the City.

B. Introduction of Assistant Fire Chief Paul Schuster and Presentation on Wildfire Preparedness

By acclamation, this item was continued to October 28, 2002.

C. Proclamation Declaring October as Fire Prevention Month 2002 – “Team Up for Fire Safety”

By acclamation, the Council proclaimed October as Fire Prevention Month.

ITEM 2

A. PUBLIC COMMENTS

Emily Harlow addressed the Council regarding water aerobics therapy. She requested the Council re-implement the classes.

Sally Womack addressed the Council regarding the cancellation of the City's water aerobics classes. She requested the City resume the classes.

Barry Gittleson indicated support for the reinstatement of the scheduled water aerobics class.

Georgianna McBurney discussed the referendum petition submitted to the City on October 10, 2002. She stated the citizens of Malibu had indicated their objection to the LCP. She suggested the present California Coastal Commission and its staff be reorganized and reconstituted.

Norman Ollestad addressed the Council regarding speeding on Pacific Coast Highway (PCH). He stated the traffic on PCH created a public safety issue. He proposed the City force Caltrans and the State to install highly visible, well advertised speeding cameras.

Lloyd Ahearn requested the Council and City Attorney address the referendum issue. He discussed the citizen involvement.

Carol Randall discussed the death of her son-in-law Mark Osborne. She stated something drastic needed to be done immediately to reduce the speeding drivers on Pacific Coast Highway. She indicated support installing cameras on Pacific Coast Highway.

B. COUNCIL COMMENTS

Mayor Jennings requested the City Attorney explain the status of the LCP referendum petition. City Attorney Hogin explained the referendum process for ordinances adopted by the City Council. She explained the petition acceptance by the City Clerk and subsequent suspension of the LCP.

Councilmember Barovsky thanked the Summer Beach Team. She asked how cameras could be installed on Pacific Coast Highway. City Attorney Hogin stated cameras could not legally be installed. City Manager Lichtig stated she would be meeting with Captain Glazar and Lt. Van Herpe regarding traffic enforcement on Pacific Coast Highway. Councilmember Barovsky stated the City should make reduction of speed on PCH a priority. She urged residents to apply for the Parks and Recreation Commission. She requested information on the water aerobics classes.

Mayor Pro Tem Kearsley discussed the resolution adopted by the League of California Cities General Membership supporting Malibu in its efforts to retain local control over the LCP. He asked about the use of radar on Pacific Coast Highway. Lt. Van Herpe explained the motorcycle patrol on PCH. Mayor Pro Tem Kearsley suggested reallocating resources to have one full time laser patrol officer on PCH. He asked about

use of the radar trailer on PCH. He requested a cost estimate for a full time laser motorcycle officer on PCH. Lt. Van Herpe stated he would be meeting with Captain Glazar and City Manager Lichtig to discuss alternatives.

Councilmember Stern commended the Summer Beach Team. He discussed the referendum petition. He discussed the dedication of Malibu Canyon / Las Virgenes as a State Authorized County Scenic Highway. He stated it was necessary to do whatever possible to reduce speeding on PCH.

Mayor Jennings echoed Councilmember Stern regarding the Beach Team. He suggested the Public Safety Commission provide input on reducing speeding on PCH. He requested the Parks and Recreation Director address the Council regarding water aerobics classes.

Parks and Recreation Director Adams discussed overcrowding at the pool and the City's joint use agreement. He stated he would work with the members of the class to continue the program.

Councilmember Barovsky asked if the Aquatics Club was a private club. Parks and Recreation Director Adams explained that the club was a private non-profit age-group swim program. He discussed the Pool Manager position. Councilmember Barovsky questioned the departure of Stacey Blitisch. Parks and Recreation Director Adams discussed the resignation of Ms. Blitisch.

Mayor Pro Tem Kearsley questioned whether there was a conflict of interest with the City's Pool Manager running the Aquatic Club. He encouraged the continuation of the water aerobics.

Mayor Jennings stated it was necessary to ensure that the City's resources were allocated fairly. He suggested the members of the water aerobics group meet with Parks and Recreation Director Adams.

Councilmember Stern requested a report back from Parks and Recreation Director Adams. City Manager Lichtig suggested the matter be addressed at the Quarterly meeting on October 30, 2002.

ITEM 3 CONSENT CALENDAR

MOTION Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to approve the Consent Calendar. The motion carried 4-0, Councilmember House absent.

The Consent Calendar consisted of the following items:

- A. Previously Discussed Items
 - 1. Second Reading and Adoption of Ordinance No. 239 Adopting the City's

Personnel System and Amending the Municipal Code

Staff recommendation: Conduct second reading, unless waived, and adopt Ordinance No. 239.

B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Staff recommendation: 1) To allow and approve warrant demand numbers 20208 through 20362 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 270 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$1,018,581.63 including ADP payroll voucher numbers 22554377-4390.

3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 relating to the Landslide Road Failure at Corral Canyon

Staff recommendation: Re-affirm the State of Local Emergency by minute order.

4. Approval of Minutes

Staff recommendation: Approve City Council meeting minutes for the regular meetings held on September 9, 2002 and September 23, 2002.

5. Resolution Supporting Proposition 47, Kindergarten – University Public Facilities Bond Act of 2002

Staff recommendation: Adopt Resolution No. 02-45 supporting the November 5, 2002 Election Proposition 47, Kindergarten – University Public Facilities Bond Act of 2002.

6. Modification of Use of CLEEP Funds

Staff recommendation: Authorize the Sheriff's Department's modified recommendations for use of the California Law Enforcement Equipment Program (CLEEP) grant funds for fiscal year 2001-2002.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

A. Zone Text Amendment 02-002 – Commercial Landscaping and Open Space (City Council Initiated)

Staff recommendation: Continue to a date uncertain.

By acclamation, the Council continued the hearing to a date uncertain.

B. Triennial Model Code Adoption - Adopting the 2001 California Building Standards Code by Reference, Pursuant to Government code Section 50022.2, the California Building Standards Code (Title 26 Los Angeles County), the California Electrical Code (Title 27 Los Angeles County Electrical Code), the California Plumbing Code (Title 28 Los Angeles County Plumbing Code), the California Mechanical Code (Title 29 Los Angeles County Mechanical Code), the California Fire Code (Title 32 Los Angeles County Fire Code), and Adopting Local Amendments Thereto

Staff recommendation: 1.) Adopt Ordinance No. 242U, adopting the 2001 California building Standards Code by Reference and declaring the urgency thereof; 2.) After City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 242, Adopting the 2001 California Building Standards Code by Reference; and 3.) Direct staff to schedule second reading and adoption of Ordinance No. 242 on October 28, 2002.

Building Official Peterson presented the staff report.

Mayor Pro Tem Kearsley asked about commercial parking plans. Building Official Peterson explained that the City would review parking plans when resurfacing or restriping was necessary.

Norm Haynie, Chair Wastewater Advisory Committee, stated the committee had reviewed all elements of the proposed code changes and supported the ordinance. He stated the proposal was consistent with the Warshall Report and Regional Water Quality Control Board standards.

Councilmember Barovsky questioned allowing wastewater treatment systems to be located offsite. Building Official Peterson explained grandfathered systems and the Zone Text Amendment restricting offsite systems.

Mayor Jennings asked about the proposed occupancy permits. Building Official Peterson explained the added value in having the Planning, Building and Fire Departments on site prior to tenant improvements being completed. He stated it was an important tool to ensure adequate septic systems and fire safety. Mayor Jennings asked if occupancy inspection would have an additional cost. Building Official Peterson explained that if a tenant improvement permit was pulled an occupancy permit would not be required.

Mayor Jennings asked about the Building Appeals Board serving as the Code Enforcement Appeals Board. Building Official Peterson explained that the Los Angeles County building appeals board met as the County code enforcement appeals board.

Mayor Jennings expressed concern about the City providing training for onsite sewage inspection. He stated the City should not license or certify inspectors.

Building Official Peterson explained that the City would merely administer the NSF certification test. Environmental Health Specialist Young explained that anyone NSF certified could be on the list to inspect septic systems in Malibu.

Mayor Jennings asked why similar lists were not maintained for geologists and geotechnical engineers. Building Official Peterson stated there was no State registration program for inspectors of septic systems.

MOTION Councilmember Barovsky moved and Councilmember Stern seconded a motion to 1.) Adopt Ordinance No. 242U, adopting the 2001 California building Standards Code by Reference and declaring the urgency thereof; 2.) After City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 242, Adopting the 2001 California Building Standards Code by Reference; and 3.) Direct staff to schedule second reading and adoption of Ordinance No. 242 on October 28, 2002. The question was called and the motion carried 4-0, Councilmember House absent.

C. Building Safety Fees
Staff recommendation: 1.) Conduct the public hearing, and 2.) Adopt Resolution No. 02-41 Establishing Fees and Charges for Building Safety Services and Repealing Resolution Nos. 91-67, 93-141 and 93-175.

Administrative Services Director James presented the staff report.

Norm Haynie discussed his experience with other municipalities and indicated Malibu's fees were too low. He stated the Building Department needed the funds to do the work that it does in a timely fashion.

Mayor Pro Tem Kearsley proposed reviewing time on task methods for proposing fees.

Councilmember Stern stated time keeping was a difficult task and would be burdensome.

Mayor Jennings expressed concern that the fees were self generated by the number of processes required.

Building Official Peterson explained that staff had studied the time it took to do typical inspections for typical construction projects.

MOTION Councilmember Barovsky moved and Councilmember Stern seconded a motion to 1.) Conduct the public hearing, and 2.) Adopt Resolution No. 02-41 Establishing Fees and Charges for Building Safety Services and Repealing Resolution Nos. 91-67, 93-141 and 93-175. The question was called and the motion carried 4-0, Councilmember House absent.

ITEM 5 OLD BUSINESS

A. Local Coastal Plan (LCP) – Discussion Pertaining to Local Coastal Program
Local Implementation Plan

Staff recommendation: Consider the issues presented in this report and provide direction to staff.

Norm Haynie suggested applicants have the option of having their application reviewed with respect to the LCP.

Mayor Jennings stated the City Attorney had indicated that the LCP was suspended. He discussed issuance of coastal development permits. City Attorney Hogin stated the Coastal Commission had an obligation to implement the Coastal Act while the City had no certified LCP. Mayor Jennings suggested staff start bringing back pieces of the local coastal program adopted by the Council and copies of the matrix to work towards an LCP that the City could live with and the Coastal Commission would certify. City Attorney Hogin stated she would advise against giving opinions as suggested by Mr. Haynie.

Mayor Pro Tem Kearsley asked about CALVO exemptions. City Attorney Hogin explained that CALVO exemptions were in effect while the LCP was suspended.

Councilmember Barovsky saluted the petition gatherers. She encouraged the Coastal Commission to implement the Coastal Act.

CONSENSUS

By consensus, the Council directed staff to begin preparing the City's LCP application.

ITEM 6 NEW BUSINESS

None.

ITEM 7 COUNCIL ITEMS

A. Appointment by Councilmember House to the Malibu Planning Commission
Recommendation: Councilmember House to make an appointment to the Malibu Planning Commission.

By acclamation, the Council continued this item due to Councilmember House's absence.

ADJOURN At 9:00 p.m., Councilmember Barovsky moved and Councilmember Stern seconded a motion to adjourn. The motion carried 4-0, Councilmember House absent.

Approved and adopted by the City Council of
the City of Malibu on November 12, 2002.

JEFFREY D. JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)